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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,756	02/13/2002	Cynthia L. Lewis	LEWI-005	1792
7590	06/07/2004		EXAMINER	
Michael S. Neustel Suite No. 4 2534 South University Drive Fargo, ND 58103			GOODMAN, CHARLES	
			ART UNIT	PAPER NUMBER
			3724	3

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/076,756	LEWIS, CYNTHIA L.
	Examiner	Art Unit
	Charles Goodman	3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____ .

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 6-9, 11, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Tschudin.

Tschudin discloses a paper towel dispenser comprising all the elements claimed including, inter alia, a rear member (e.g. 12); at least one adhesive strip (e.g. 20), a first arm (30; a second arm (30); and a roll of sheet material (e.g. 45). Figs. 1-2.

Regarding claim 11, paper is odor absorbent.

Regarding the length of the sheet, since refrigerators come in a variety of sizes, the length shown by Tschudin anticipates this limitation.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-9 and 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moreno in view of Tschudin.

Moreno discloses the invention substantially as claimed except for at least one adhesive strip. However, Tschudin teaches a dispenser comprising a rear member (e.g. 12) having an adhesive strip (20) for the purpose of attaching the same to surfaces, e.g. a refrigerator. Figs. 1-3, c. 2, ll. 28-41. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the device of Moreno with the adhesive strip as taught and suggested by Tschudin in order to facilitate mounting the dispenser on a surface.

Regarding claims 8-9 and 18-19, although the modified device of Moreno discloses the invention substantially as claimed except for the roll material being perforated. However, Tschudin also teaches that dispensers having a cutting edge are adapted for tearing rolls of perforated material. In view of the above, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the modified device of Moreno with perforated roll of material for dispensing. As a result, each perforated sheet is "identifying".

Regarding the length of the sheet, since refrigerators come in a variety of sizes, the length shown by Moreno and/or Tschudin anticipates and renders obvious this limitation.

Regarding claim 11, plastic is to some extent odor absorbent. As noted above so is paper.

Regarding the claims directed to the roll, they have been treated as combination claims for examination purposes.

5. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moreno in view of Tschudin as applied to claims 1-9 and 11-19 above, and further in view of Conrad.

The modified device of Moreno discloses the invention substantially as claimed except for the different layers in the roll material. However, Conrad et al teaches flexible mat material having the layers as claimed. Since the mat typically are in roll form, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the modified device of Moreno with the material as taught and suggested by Conrad in order to facilitate dispensing thereof.

### ***Conclusion***

6. Protney, Holden, Newby et al, Fujiwara, Newbold, Brown, Huang et al, Hu, Crebbs, and Winter et al are cited as pertinent art.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (703) 308-0501. The examiner can normally be reached on Monday-Thursday between 7:30 AM to 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached on (703) 308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-1148.

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**Charles Goodman**  
**Primary Examiner**  
**AU 3724**

  
cg  
June 1, 2004

  
**CHARLES GOODMAN**  
**PRIMARY EXAMINER**